

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHAUNCEY RENEE SIMPSON,

No. C-11-2642 EMC (pr)

Plaintiff,

v.

**ORDER DENYING APPOINTMENT OF
COUNSEL AND EXTENDING
DEADLINES**I. MARTINEZ, correctional officer,
et al.,

Defendants.

Plaintiff has moved for appointment of counsel to represent him in this action. A district court has the discretion under 28 U.S.C. §1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional circumstances. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *See id.* Neither of these factors is dispositive and both must be viewed together before deciding on a request for counsel under § 1915(e)(1). Here, exceptional circumstances requiring the appointment of counsel are not evident at this time. The request for appointment of counsel is **DENIED**. (Docket # 21.)

Due to the possibility that Plaintiff was waiting for a ruling on his request for appointment of counsel rather than preparing his opposition to the pending motion for summary judgment, the Court now extends the deadlines for Defendant's summary judgment motion.

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1 a. Plaintiff's opposition to the summary judgment must be filed and served no
2 later than **October 19, 2012**.

3 b. Defendant's reply brief, if any must be filed and served no later than
4 **November 2, 2012**.

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6 IT IS SO ORDERED.

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8 Dated: September 13, 2012

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11 EDWARD M. CHEN
12 United States District Judge
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